

8/1

Notice of Allowability	Application No.	Applicant(s)	
	10/775,356	WANG, JIAN	
	Examiner	Art Unit	
	Derek S. Chapel	2872	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--
 All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 5/30/2007.
2. ☒ The allowed claim(s) is/are 1-37, 39-42 and 50-51 (renumbered 1-43).
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☐ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).
 - * Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.
THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.

Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

- | | |
|--|--|
| 1. <input type="checkbox"/> Notice of References Cited (PTO-892) | 5. <input type="checkbox"/> Notice of Informal Patent Application |
| 2. <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 6. <input type="checkbox"/> Interview Summary (PTO-413),
Paper No./Mail Date _____. |
| 3. <input type="checkbox"/> Information Disclosure Statements (PTO/SB/08),
Paper No./Mail Date _____ | 7. <input checked="" type="checkbox"/> Examiner's Amendment/Comment |
| 4. <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit
of Biological Material | 8. <input checked="" type="checkbox"/> Examiner's Statement of Reasons for Allowance |
| | 9. <input type="checkbox"/> Other _____. |

DETAILED ACTION

Status Of Claims

1. This Office Action is in response to an amendment received 5/30/2007 in which Applicant lists claims 26-31, 37, 40-49 and 52-55 as being withdrawn, claim 38 as being cancelled, claims 2-13, 15, 18-25, 32-36 and 51 as being original, claims 14 and 16-17 as being previously presented and claims 1, 39 and 50 as being currently amended.

Election/Restrictions

2. Claims 1 and 50 are allowable. The restriction requirement among species, as set forth in the Office action mailed on 10/5/2004, has been reconsidered in view of the allowability of claims to the elected invention pursuant to MPEP § 821.04(a). **The restriction requirement is hereby withdrawn as to any claim that requires all the limitations of an allowable claim.** Claims 26-31, 37 and 40-42, directed to a non-elected species are no longer withdrawn from consideration because the claim(s) requires all the limitations of an allowable claim. However, claims 43-49 and 52-55, directed to a non-elected species, remain withdrawn from consideration because they do not all require all the limitations of an allowable claim.

In view of the above noted withdrawal of the restriction requirement, applicant is advised that if any claim presented in a continuation or divisional application is anticipated by, or includes all the limitations of, a claim that is allowable in the present

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application, such claim may be subject to provisional statutory and/or nonstatutory double patenting rejections over the claims of the instant application.

Once a restriction requirement is withdrawn, the provisions of 35 U.S.C. 121 are no longer applicable. See *In re Ziegler*, 443 F.2d 1211, 1215, 170 USPQ 129, 131-32 (CCPA 1971). See also MPEP § 804.01.

Drawings

4. The amendments were received on 5/30/2007. These amendments are accepted. The objections to the drawings cited in the office action mailed 1/31/2007 are hereby withdrawn.

Claim Objections

5. The amendments to the claims dated 5/30/2007 are accepted. The objections to the claims cited in the office action mailed 1/31/2007 are hereby withdrawn.

Claim Rejections - 35 USC § 112

6. The amendments to the claims dated 5/30/2007 are accepted. The rejections to the claims made under 35 USC 112 first paragraph and cited in the office action mailed 1/31/2007 are hereby withdrawn.

Allowable Subject Matter

7. Claims 1-37, 39-42 and 50-51 are allowed.

8. The following is an examiner's statement of reasons for allowance:

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Claim(s) 1 and 50 are allowable over the cited art of record for at least the reason that the cited art of record fails to teach or reasonably suggest a polarization dependent device wherein said device has an extinction ratio greater than approximately 100 in transmission over an entire wavelength range of 390 nm to 1600 nm, as generally set forth in claim(s) 1 and 50, the device including, in combination with the features recited in claims 1 and 50. Claims 2-37, 39-42 and 51 depend from claims 1 or 50 and are therefore allowable for at least the same reasons as claims 1 and 50.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

EXAMINER'S AMENDMENT

9. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Gerald Kiel (25,116), 212-521-5400 on 6/8/2007.

The application has been amended as follows:

- A. Change "the" to --an-- after "transmission over" in the 10th line of claim 1 and 8th line of claim 50.

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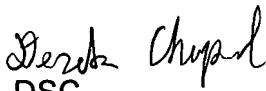
- B. Change "the" to --an-- after "0.50 over" in the second line of claim 39.
- C. Cancel claims 43-49 and 52-55.

Conclusion

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Derek S. Chapel whose telephone number is 571-272-8042. The examiner can normally be reached on M-F 8:30am-5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Stephone B. Allen can be reached on 571-272-2434. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.


DSC
6/8/2007


ARNEL LAVARIAS
PRIMARY PATENT EXAMINER